

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 666 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KOMET METAL INDUSTRIES

Versus

REGIONAL PROVIDENT FUND                      COMMISSIONER

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Appearance:

MR PC MASTER for Petitioners

MR JD AJMERA for Respondent No. 1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/10/97

ORAL JUDGEMENT

In this special civil application, the petitioners have challenged the order Annexure K dated 18.2.1988 passed by the respondent under Section 14B of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act'). Under Section 7-I of the aforesaid Act now this order is appealable. When this special civil application was filed by the petitioners the Central Government had not constituted

the Appellate Tribunal. But now the Appellate Tribunal has been constituted by Notification under Section 7D of the Act. Now, when alternative statutory remedy of appeal is available to the petitioners, this special civil application is not maintainable. The apprehension of the petitioners' counsel that the Tribunal may dismiss the appeal of the petitioners on the ground of limitation cannot be said to be without any substance or justification.

In the result, this special civil application is dismissed on the ground of availability of alternative remedy of appeal against the impugned order. In case the petitioners prefer appeal against the impugned order before the Appellate Tribunal within a period of one month from today then the Tribunal is directed to decide the same on merits and it shall not dismiss the same on the ground of limitation. The interim relief which has been granted by this Court to the petitioners shall continue in the same terms for six weeks from today. Thereafter the Appellate Tribunal shall consider the question of extension or continuation of the interim relief which has been granted by this Court, in accordance with law. While considering the same it will not be influenced by the fact that this Court has granted interim relief.

Subject to the aforesaid direction, rule is discharged. No order as to costs.